

Institute for **Cultural Relations Policy**



ICRP Research Paper Series

June
2021



Issue #17

The Institute for Cultural Relations Policy publishes online research papers and essays that reflect multidisciplinary fields, contribute to influencing and expanding the body of research on cultural relations policy, and enhance dialogue among researchers, policy makers and the public.

The ICRP Research Paper Series includes working papers, original research studies, reflective essays by authors affiliated with ICRP, and major reports generated by ICRP related research projects. Authors are responsible for the content, and the views and interpretations expressed are not necessarily those of ICRP's research staff and other affiliated researchers. Questions regarding the content of individual ICRP contributions and ICRP research reports should be directed to the authors.

CULTURAL GENOCIDE: HUMAN RIGHTS VIOLATIONS INVOLVING THE
DISAPPEARANCE AND GENDER-BASED VIOLENCE AGAINST THE INDIGENOUS WOMEN
IN CANADA AND THE NEED FOR THEIR PROTECTION AND THE PROMOTION OF INTER-
CULTURAL UNDERSTANDING AND DIPLOMACY

Candice Stephens-Mc Nichols

The human rights of indigenous communities have long been under severe threat. For example, during the times of colonialism and the conquest of the so called “New World” by Christopher Columbus, the world witnessed the mass annihilation of the indigenous communities in the Americas and in Latin America and the Caribbean. However, today, indigenous communities and particularly women of these indigenous communities continue to face the threat of genocide due to cultural stereotyping and discrimination within the Americas. Notably, Canada has not been immune to mass genocide perpetrated against their indigenous or first nation populations. This is particularly so for women and girls who are extremely vulnerable, and continue to be victims of enforced disappearances, and gender-based violence including sexual violence and murder.

Within the context of international law, the rights of indigenous peoples are recognized under the United Nations Declaration on the Rights of Indigenous Peoples. This Declaration was promulgated in 2007 and was adopted by the United Nations General Assembly on the 31st September 2007 by 144 states who voted in favour of it, with eleven abstentions and four states voting against it including (the US, New Zealand, Australia and Canada). Subsequently, these four states however changed their position and the Declaration is now considered to be the most important instrument delineating the rights of the Indigenous populations. It should be noted however, that this Declaration is a non-legally binding agreement, and as such, it is non-binding for member States of the UN, and can only be regarded as soft law at most. In order for such Declaration to have true force of law, it should be incorporated into the domestic law of states with indigenous populations.

Nevertheless, the Declaration does contain specific provisions which elaborate upon the most important rights of indigenous peoples including their rights to self-determination and to the

principle of non-discrimination which are principles of both customary international law and are also contained under legally binding International Treaties such as the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR).

It is noteworthy, that although the UN Declaration on the Rights of Indigenous Peoples is non-legally binding, that there are other legally binding treaties which recognize the rights of the indigenous populations and particularly their right to non-discrimination on the basis of race and ethnicity and also on the basis of culture and religion. These Conventions include the ICCPR which protects the right of indigenous people to enjoy their culture, to profess and practice their own religion and to use their own language which is contained under Article 27. It also includes the International Convention on the Elimination of All Forms of Racial Discrimination which recognizes the rights of indigenous peoples to non-discrimination on the basis of race and to equality in the participation in public life. Additionally, there is also the Convention against Torture which recognizes under Article 2 the need for protection of certain minority and marginalized groups and recognizes the obligations of states to ensure that their laws are applied to all persons regardless of their indigenous status.

Within recent times, however, the territory of Canada has witnessed the mass disappearance and murders of several indigenous women and girls. It was noted that approximately 4000 or more indigenous women were murdered or went missing in the last 30 years which equates to about 133 murders a year or three murders a week. (Morin, 2020) From the reports of the National inquiry which was launched in 2015, and was concluded in 2019, it was reported that these disappearances and murders amounted to race-based genocide and the Final Report of the National Inquiry noted that the deliberate human rights violations against the indigenous community were at the heart of the staggering rates of violence perpetrated against women and girls. (National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019)

In a 2018 ruling by a Provincial Court Judge Alexander Wolf LJ, from the Court in British Columbia Canada concerning a fourteen year old girl who was raped by multiple strange men and in which the accused was acquitted of the charges, it was noted by the judge that:

“Indigenous females have a greater chance of being victims of spousal violence. They have an increased chance of being sexually abused while in care and sexually assaulted when out of care[...].” The judge also remarked “we need to do something we need to act now, when will these horrible crimes against our young girls and women ever end?”

The Judge in this particular case noted that Indigenous women and girls in particular face a disadvantage and they are often the victims of domestic violence as well as rapes. The UN High Commissioner for Human Rights noted that the inequality experienced by indigenous peoples are “a glaring reminder of the Canadian state’s inability to overcome systemic racism, the intergenerational trauma of colonialism and the inadequate provision of specialized services and programs for each community”. (Morin, 2020) Indeed such crimes are often perpetrated against Indigenous women and girls because of deeply entrenched cultural stereotyping and racial discrimination against such women. At the moment, although Canada had tried to implement a plan of action in 2020 in order to come up with policies to protect the indigenous community and its women and girls, these plans were unfortunately stalled due to the COVID-19 pandemic. This is therefore viewed as another major set back for the indigenous community whose peoples continue to be kidnapped, raped and decimated and particularly their women and girls.

The need for intercultural education and awareness, understanding and diplomacy

The indigenous population or First Nations peoples in Canada have been part of the Canadian society for many years. However, the mass genocide of this population and particularly its women and girls reveal that the issues of cultural and racial discrimination are still very pervasive within society. Although the state has sought to highlight the untold stories of indigenous people through the funding of a \$34 million dollar project to recognize the art of this population and through dance, much more needs to be done in building intercultural awareness and understanding of the indigenous population and the issues they face.

In this respect, a lot more attention has to be paid to developing policies to increase intercultural awareness and understanding about Indigenous people by hosting events and special days quite apart from the National Indigenous History Day and Month which has been established to commemorate the impact that indigenous communities have made upon the country. The government may wish to dedicate an entire year to be designated “The year of the Indigenous Peoples” or “the year of the First Nations Peoples”. Throughout this year, the impacts of the Indigenous Communities should also be show-cased throughout the media as a way of educating the general population about the Indigenous communities, the contributions they have made and engendering appreciation for such peoples.

The government may also wish to host cultural shows, including concerts or exhibitions at museums where the relics of the indigenous communities are already on display and during this period to showcase the works of the indigenous peoples, their talents and inviting the public to take part in the cultural shows and events.

They must also wish to establish cultural and diplomatic accords with the Indigenous Community to make the history and contributions of the indigenous community a mandatory part of all the primary school's curriculum by teaching children about the indigenous people and encouraging them to foster an appreciation for persons of diverse cultural backgrounds and origins at an early age. In fact, it was noted by the Truth and Reconciliation Commission (TRC) in 2015 that there was need to create an age-appropriate curriculum about the lives of the indigenous peoples and to make education about these peoples a mandatory feature of the school's curriculum. (Kabatay et. al, 2019) It was noted that while some primary schools have started revising their school's curriculum to include an understanding of the history of indigenous or first nation people's, it has not been fully implemented throughout all of the various provinces. (Kabatay et.al, 2019)

Because women and girls of the indigenous communities are often victims of enforced disappearances, rape and murders, specific emphasis would have to be made on promoting gender equality and creating policies not just for general women and girls of the Canadian society but specific emphasis may have to be placed on promotion of gender equality for indigenous women and girls. It was noted that at the start of the year 2021, the government has invested \$ 1million dollars to advance and promote the gender equality of indigenous women and girls which is an excellent start in the right direction to improving the lives for these women and girls. (Women and Gender Equality Canada, 2021) Notably, it was indicated that there is a Commemoration Fund which has been established for Missing and murdered Indigenous Women. (Women and Gender Equality Canada, 2021). With this fund or a fund specifically designated for Protection of indigenous Women, the Canadian government can undertake policies to assist indigenous women who are victims of violence to become empowered by increasing the number of specific safe houses or shelters designated for indigenous women to protect such women from domestic violence and other forms of violence including sexual violence.

They can also encourage the launch of a platform for women including a women's voice or women speak initiative to encourage indigenous women who were victims of GBV to find a voice and to empower other women who have also been kidnapped, raped or abused to find a

voice. Such an initiative would increase awareness of the issues which indigenous women currently face. Out of this funding as well, the government can embark on cultural education and awareness campaigns throughout the media to sensitize the general population about the circumstances facing indigenous women and girls in particular and how they can get involved in the fight to combat GBV against such women and girls. Increased awareness and sensitization programmes and highlighting the circumstances of indigenous women through creative platforms such as in drama, public relations, song, poetry and dance in the media can build greater awareness and sensitize the Canadian population about the abuse that indigenous women and girls face on a daily basis. It can also engender greater appreciation for the indigenous community and these women and girls. The Canadian government may also need to be strategic by placing electronic billboards in strategic locations highlighting the theme of “Stop violence against indigenous women and girls”. The more persons see such information the more sensitized they would be towards the issues facing indigenous women and girls and against GBV. They may also be more motivated to join in the fight against GBV against indigenous women.

The Canadian government can also encourage the introduction of gender equality and clubs against gender-based violence against indigenous peoples within both primary and secondary schools and on the school’s curriculum as well as within tertiary level institutions. Moreover, the government can also forge cultural and diplomatic agreements between women’s leaders and girls within the indigenous population to speak at schools and to raise education and awareness about Gender based violence within the school or as part of the university’s curriculum. As part of its cultural relations and diplomatic policy and engagement with the indigenous populations and particularly women and girls, the government may wish to consider hosting the Model United Nations series to deal specifically with gender-based violence against women and girls and to highlight how cultural stereotyping and systemic racism may contribute to violence against women and girls of the Indigenous community in Canada. Additionally, within the law school’s curriculum, special mooted sessions should be dedicated specifically towards advocacy on behalf of indigenous women and girls who are victims of GBV.

It should be noted that policies alone cannot protect women and girls within indigenous populations from GBV. However, such policies must be supplemented by laws established to protect women and girls. In this regard, it was highlighted earlier that the Convention against Torture recognizes under Article 2 the need for protection of certain minority and marginalized groups and recognizes the obligations of states to ensure that their laws are applied to all persons

regardless of their indigenous status. It is noteworthy that the Canadian Government has in fact sought to promulgate legislation to bring into effect the United Nations Declaration on the Rights of Indigenous Peoples and has since introduced Bill C-15, United Nations Declaration on the Rights of Indigenous Peoples Act. This is seen as a significant and positive step towards the protection and advancement of the rights of the indigenous community including their women and girls.

* * *

References

- CBC News, 2019. These are the cases authorities say do not involve foul play. *CBC News* [online] Available at: <<https://www.cbc.ca/missingandmurdered>> [Accessed on 8 June 2021]
- Kabatay, J. and Johnson, R., 2019. Charting progress on Indigenous content in school curricula. *CBC News*, 2 October [online] Available at: <<https://www.cbc.ca/news/indigenous/indigenous-content-school-curriculums-trc-1.5300580>> [Accessed on 9 June 2021]
- Lindsay, B., 2021. In ruling on rape, B.C. judge pleads for action to protect indigenous girls from ‘horrible crimes’. *CBC News*, 24 January [online] Available at: <<https://www.cbc.ca/news/canada/british-columbia/bc-sexual-assault-ruling-indigenous-girls-1.5885170>> [Accessed on 11 June 2021]
- Morin, B., 2020. Indigenous Women are preyed on at horrifying rates. I was one of them. *The Guardian*, 7 September [online] Available at: <<https://www.theguardian.com/commentisfree/2020/sep/07/canada-indigenous-women-and-girls-missing>> [Accessed on 10 June 2021]
- Stefanovich, O. (2021) ‘New MMIWG art project focuses on untold stories of national inquiry.’ *CBC News* 10 February 2021 [Online] Available at: <https://www.cbc.ca/news/politics/mmiwg-commemorative-project-we-dance-for-life-1.5905433> (Accessed 11 June, 2021)
- Women and Gender Equality Canada, 2021. *Government of Canada Invests Over \$1 million to Advance Gender Equality for Indigenous Women and Girls* [online] Available at: <<https://www.canada.ca/en/women-gender-equality/news/2021/03/government-of-canada-invests-over-1-million-to-advance-gender-equality-for-indigenous-women-and-girls.html>> [Accessed on 12 June 2021]



Institute for **Cultural Relations Policy**

<http://culturalrelations.org>

institute@culturalrelations.org